

Status: Point in time view as at 06/04/2006.

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SCHEDULES

SCHEDULE 9

AMENDMENTS OF PARTS VI, IX, XI, XVII AND XVIII OF THE HOUSING ACT 1985

PART II

AMENDMENTS OF PART IX

^{F1}14

Textual Amendments

F1 Sch. 9 paras. 1-14 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5)(f), [Sch. 16](#); [S.I. 2006/1060](#), art. 2(1)(e) (with [Sch.](#)); [S.I. 2006/1535](#), art. 2(c) (with [Sch.](#))

15 Section 266 (power to make closing order as to part of building) shall cease to have effect.

^{F2}16

Textual Amendments

F2 Sch. 9 para. 16 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5)(f), [Sch. 16](#); [S.I. 2006/1060](#), art. 2(1)(e) (with [Sch.](#)); [S.I. 2006/1535](#), art. 2(c) (with [Sch.](#))

17 (1) In section 269 (right of appeal against order), in subsection (2) after the word “premises” there shall be inserted “or part of the premises”.

^{F3}(2)

(3) In subsection (3) of that section, paragraph (b) and the word “and” immediately preceding it shall be omitted.

^{F3}(4)

(5) Subsections (4) and (5) of that section shall cease to have effect.

Textual Amendments

F3 Sch. 9 para. 17(2)(4) repealed (6.4.2006 for E.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5)(f), [Sch. 16](#); [S.I. 2006/1060](#), art. 2(1)(e) (with [Sch.](#))

18 (1)

(2)

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19 In section 273 (demolition orders: cleansing before demolition), in subsection (4) for the word “house” there shall be substituted “premises”.

20 (1) In section 274 (demolition orders: power to permit reconstruction of condemned house), in subsection (1) for the word “house”, in each place where it occurs, there shall be substituted “premises”

F⁴(2)

F⁴(3)

Textual Amendments
F4 Sch. 9 para. 20(2)(3) repealed (6.4.2006 for E.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5)(f), [Sch. 16](#); [S.I. 2006/1060](#), [art. 2\(1\)\(e\)](#) (with Sch.)

F⁵21

Textual Amendments
F5 Sch. 9 paras. 21-23 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5)(f), [Sch. 16](#); [S.I. 2006/1060](#), [art. 2\(1\)\(e\)](#) (with Sch.); [S.I. 2006/1535](#), [art. 2\(c\)](#) (with Sch.)

F⁵22

Textual Amendments
F5 Sch. 9 paras. 21-23 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5)(f), [Sch. 16](#); [S.I. 2006/1060](#), [art. 2\(1\)\(e\)](#) (with Sch.); [S.I. 2006/1535](#), [art. 2\(c\)](#) (with Sch.)

F⁵23

Textual Amendments
F5 Sch. 9 paras. 21-23 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5)(f), [Sch. 16](#); [S.I. 2006/1060](#), [art. 2\(1\)\(e\)](#) (with Sch.); [S.I. 2006/1535](#), [art. 2\(c\)](#) (with Sch.)

24 Sections 280, 281 and 282 (which relate to the closing etc. of underground rooms) shall cease to have effect.

25 F⁶(1)

(2) After that subsection there shall be inserted the following subsections—

“(2A) A residential building containing one or more flats shall be treated for the purposes of this section as unfit for human habitation if some or all of the flats within it are unfit for human habitation.

(2B) Before declaring an area to be a clearance area, the authority shall—

- (a) serve notice of their intention to include a building in the clearance area on every person who has an interest in the building (whether as freeholder, lessee or mortgagee) and also, in the case of a residential

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- building, on every person who has such an interest in any flat in the building; and
- (b) take reasonable steps to inform any occupiers of a residential building who do not have such an interest in the building or a flat in the building as is referred to in paragraph (a) of their intention to include the building in the clearance area; and
 - (c) publish in two or more newspapers circulating in the locality (of which one at least shall, if practicable, be a local newspaper) notice of their intention to declare the area to be a clearance area.
- (2C) A notice served under paragraph (a) of subsection (2B) shall invite representations from the person on whom the notice was served within such reasonable period, being not less than twenty-eight days after the date on which the notice is served, as may be specified in the notice.
- (2D) The authority shall, by the steps taken in relation to occupiers of a residential building as mentioned in paragraph (b) of subsection (2B), invite representations from those occupiers within such reasonable period, expiring not less than twenty-eight days after the date on which the steps are taken, as may be specified by the authority.
- (2E) A notice published in accordance with paragraph (c) of subsection (2B) shall invite representations from any interested persons within such reasonable period, being not less than twenty-eight days after the date on which the notice is published, as may be specified in the notice.
- (2F) The authority shall consider all representations made under subsections (2C), (2D) and (2E) and, in the light of the representations, shall take whichever of the following decisions they think appropriate, that is to say—
- (a) they may decide to declare the area to be a clearance area; or
 - (b) they may decide to declare the area to be a clearance area but exclude such residential buildings which are unfit for human habitation as they think fit; or
 - (c) they may decide not to declare the area to be a clearance area.”
- (3) In subsection (3) of that section,—
- (a) for the words “If the authority are so satisfied” there shall be substituted the words “ Subject to subsection (5B), where the authority decide to declare an area to be a clearance area in accordance with paragraph(a) or paragraph (b) of subsection (2F) ”; and
 - (b) in paragraph (a), for the words from “any building” onwards there shall be substituted—
 - “(i) any residential building which is not unfit for human habitation or dangerous or injurious to health;
 - (ii) any other building which is not dangerous or injurious to health; and
 - (iii) any residential buildings which, by virtue of subsection (2F)(b), they have decided to exclude from the area; and”
- (4) After subsection (5) there shall be inserted the following subsections—

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“(5A) Where a residential building which is unfit for human habitation is not included within a clearance area, whether by virtue of paragraph (b) or paragraph (c) of subsection (2F), the authority shall forthwith, in accordance with section 604A (disregarding guidance under that section in respect of this section), take action in respect of the building (and any flat contained within it) under whichever of sections 189, 264 and 265 it considers to be the most satisfactory course of action.

(5B) Subject to section 578A, a clearance area may not include any parcel of land which is not contiguous with another parcel of land within the area; and, where the effect of subsection (3) would otherwise be that a clearance area would comprise two or more separate and distinct areas, paragraph (b) of that subsection shall have effect as if for the words “pass a resolution declaring the area so defined” there were substituted “ if the effect of paragraph (a) would otherwise be that the area would comprise two or more separate and distinct areas, pass a separate resolution in respect of each of those areas declaring each of them ”.”

Textual Amendments

F6 Sch. 9 para. 25(1) repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with [Sch.](#)); S.I. 2006/1535, art. 2(c) (with [Sch.](#))

26 In section 291 (method of dealing with land acquired for clearance), in subsection (3) the words “Schedule 11 (rehabilitation orders)” shall be omitted.

27 (1) In section 294 (extinguishment of public rights of way over land acquired), at the end of subsection (1) there shall be added the words “ as from such date as the Secretary of State in approving the order may direct ”.

(2) In subsection (2) of that section for the words from “they may make” onwards there shall be substituted “ an order made by the authority in advance of the purchase and approved by the Secretary of State (whether before or after the purchase) shall extinguish that right as from such date as the Secretary of State in approving the order may direct ”.

(3) In subsection (3) of that section—
(a) for the word “six” there shall be substituted “ four ”; and
(b) after the word “publication” there shall be inserted “ then, subject to subsection (4) ”.

(4) After that subsection there shall be inserted the following subsection—
“(4) The Secretary of State may dispense with such an inquiry as is referred to in subsection (3) if he is satisfied that in the special circumstances of the case the holding of such an inquiry is unnecessary.”

28 Section 299 and Schedule 11 (rehabilitation orders in respect of houses in clearance areas) shall cease to have effect.

F729

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Textual Amendments

F7 Sch. 9 para. 29 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\), s. 270\(4\)\(5\) \(f\), Sch. 16](#); [S.I. 2006/1060, art. 2\(1\)\(e\)](#) (with Sch.); [S.I. 2006/1535, art. 2\(c\)](#) (with Sch.)

30 (1) In section 301 (retention of houses acquired for clearance), in subsection (1) for the word “houses”, in each place where it occurs, there shall be substituted “ residential buildings ”.

(2) In subsection (2) of that section for the word “house”, in each place where it occurs, there shall be substituted “ residential building ”.

(3) In subsection (3) of that section for the word “houses”, in each place where it occurs, there shall be substituted “ residential buildings ”.

(4) After that subsection there shall be inserted the following subsection—

“(4) In this section and section 302 “residential building” has the same meaning as it has in section 289.”

31 In section 302 (management and repair of house acquired under s. 300 or retained under s. 301)—

(a) for the word “house”, in each place where it occurs except in paragraph (c), there shall be substituted “ residential building ”; and

(b) in paragraph (c) for the word “house” there shall be substituted “ residential building or any flat in the building ”.

^{F8}32

Textual Amendments

F8 Sch. 9 para. 32 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\), s. 270\(4\)\(5\) \(f\), Sch. 16](#); [S.I. 2006/1060, art. 2\(1\)\(e\)](#) (with Sch.); [S.I. 2006/1535, art. 2\(c\)](#) (with Sch.)

33 ^{F9}(1)

(2) In subsection (6) of that section for the word “house”, in each place where it occurs, there shall be substituted “ residential building ”.

(3) After subsection (7) of that section there shall be inserted the following subsection—

“(8) In this section “residential building” has the same meaning as in section 289; and subsection (2A) of that section shall apply in determining whether a residential building containing one or more flats is unfit for human habitation for the purposes of subsection (4) as it applies for the purposes of that section.”

Textual Amendments

F9 Sch. 9 para. 33(1) repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\), s. 270\(4\)\(5\) \(f\), Sch. 16](#); [S.I. 2006/1060, art. 2\(1\)\(e\)](#) (with Sch.); [S.I. 2006/1535, art. 2\(c\)](#) (with Sch.)

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- 34 In section 306 (building becoming listed when acquired by agreement for clearance), in subsection (2), in paragraph (b) for the word “house” there shall be substituted “ residential building (within the meaning of section 289) ”.
- 35 In section 309 (recovery of possession of premises for purposes of approved re-development), in subsection (2) for the word “house”, in each place where it occurs, there shall be substituted “ dwelling-house ”.
- F10 36

Textual Amendments
F10 Sch. 9 para. 36 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\), s. 270\(4\)\(5\) \(f\), Sch. 16](#); [S.I. 2006/1060, art. 2\(1\)\(e\) \(with Sch.\)](#); [S.I. 2006/1535, art. 2\(c\) \(with Sch.\)](#)

- 37 In section 315 (power of court to order occupier or owner to permit things to be done), in subsection (1)—
 - (a) in paragraph (a) the words “or person having control” shall be omitted; and
 - (b) in paragraph (b) for the words “owner or person having control” there shall be substituted “ or owner ”.
- 38 In section 318 (power of court to authorise execution of works on unfit premises or for improvement), in subsection (1) for the word “houses” there shall be substituted “ dwelling-houses or houses in multiple occupation or both ”.
- 39 (1) In section 319 (powers of entry), in subsection (1) for the words “24 hours” there shall be substituted “ seven days ”.
- (2) At the end of subsection (2) of that section there shall be added the words “ and shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf ”.
- 40 (1) In section 320 (penalty for obstruction), in subsection (1) after the word “offence” there shall be inserted “ intentionally ”.
- (2) In subsection (2) of that section for the words “level 2” there shall be substituted “ level 3 ”.
- 41 Section 321 (repair at reasonable expense) shall cease to have effect.
- F11 42

Textual Amendments
F11 Sch. 9 para. 42 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\), s. 270\(4\)\(5\) \(f\), Sch. 16](#); [S.I. 2006/1060, art. 2\(1\)\(e\) \(with Sch.\)](#); [S.I. 2006/1535, art. 2\(c\) \(with Sch.\)](#)

- 43 In section 323 (index of defined expressions: Part IX)—
 - (a) the entries beginning “the full standard”, “general improvement area”, “house”, “land liable to be cleared”, “person having control”, “slum clearance functions”, “slum clearance subsidy” and “year” shall be omitted
 - F12 (b)
 - (c) at the appropriate places in alphabetical order there shall be inserted the following entries—

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“dwelling-house	sections 266 and 322
flat	section 322
house in multiple occupation	section 322
premises	section 322”

Textual Amendments

F12 Sch. 9 para. 43(b) repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); [S.I. 2006/1060](#), art. 2(1)(e) (with [Sch.](#)); [S.I. 2006/1535](#), art. 2(c) (with [Sch.](#))

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